Civil

Single Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CG)

WRIT PETITION NO. 389 OF 2005

BETWEEN

Sayeed Khan S/o Shri Hatim Khan, aged about 42 years, resident of Moudha Para, Raipur, Tahsil and District Raipur (CG).

PETITIONER

A N D

1. The State of Chhattisgarh, through the Secretary , Local Self Government, Government of Chhattisgarh, D.K.S. Building, Raipur (CG).

2. Municipal Corporation, Raipur, through its Commissioner, Municipal Corporation, Raipur (CG).

3. The Commissioner, Municipal Corporation, Raipur (CG).

4. Ramakant Daga, Proprietor Shri Mahalaxmi Enterprises, Gudhyari Road, Raipur (CG).

RESPONDENTS

P.R. No. 375/05 Presented by Shri Sumit Sahu dated 29.01.05

RECEIVED COPY 29/1/05 for A.G. Bilaspur

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

1. Particulars of the Petitio

(73)

HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

Writ Petition No.389 of 2005

Sayeed Khan

- Versus -

State of Chhattisgarh & others

POST FOR ORDER ON 10th FEBRUARY, 2005

Sd/-
L.C. Bhadoo
Judge

(74)

HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

Writ Petition No.389 of 2005

Sayeed Khan

- Versus -

State of Chhattisgarh & others

Present: -

Mr. Awadh Tripathi, Advocate:	For the petitioner.
Mr. Sumesh Bajaj, Dy. Govt. Adv.:	For respondent No.1
Mr. Pankaj Agarwal, Advocate:	For respondent No.2 & 3.
Mr. P. Diwakar, Sr. Adv. with Miss. Sunita Jain, Advocate:	For the respondent No.4

O R D E R

(Passed on 10th February, 2005)

L.C. BHADOO, J.

1. By way of this writ petition an unsuccessful bidder has made yet another attempt to challenge the contract awarded in favour of respondent No.4 by respondent No.2 & 3-Municipal Corporation, Raipur in the year 1994 whereby respondent No.2 & 3 entered into an agreement with respondent No.4 herein for construction of eight shops in the campus of Saheed Smarak School, Raipur and for which respondent No.4 bid to pay respondent No.2 & 3 Rs.4,01,000/- was accepted. As per agreement, respondent No.4 agreed upon to construct unfinished eight shops of which respondent No.4 was entitled to take the premium, those shops were to be allocated by respondent No.4 on 30 years lease basis to the private persons with the approval of Corporation and respondent Corporation was entitled to charge rent at the rate of Rs.2/- per square feet.

2. After entering into the agreement in the year 1994 when respondent No.4 was in progress of constructing the shops as per agreement, all of a sudden respondent No.3 vide its order dated 21.8.1995 stopped respondent No.4 herein from constructing the said shops with immediate effect. Being aggrieved by that order, respondent No.4 filed a writ petition before the then High Court of M.P. at Jabalpur, which came to be registered as W.P. No.2887/95, in which the order of status quo was granted in favour of respondent No.4 herein. However, it seems that respondent No.4 herein moved an application before the respondent No.2 & 3-Council on 8.6.2004 detailing various facts of losses incurred by him as well as by Municipal Corporation and requested that earlier order was passed without hearing him and on unjustified grounds, therefore, that order be recalled and he be allowed to construct the said shops so that the public interest should not suffer. It appears that on this letter a resolution was passed on 22.8.2004 by the Mayor-in-Council, Municipal Corporation, Raipur in which a decision was taken that the possession of the shops in question can be given to respondent No.4 and ultimately, respondent No.4 was asked to withdraw the writ petition bearing W.P. No. 2887/1995 filed by him. In response to that, respondent No.4 withdrew the said writ petition and thereafter, respondent No.4 was allowed to go with the construction work and ultimately, vide letter dated 24.1.2005 respondent No.4 informed the respondent No.2 & 3 that he has completed the construction work and also requested to execute the lease deed in favour of two persons mentioned in that letter.

3. The petitioner herein aggrieved by the decision of respondent No.2 & 3 awarding contract and entering into agreement with respondent No.4 filed a writ petition before the then High Court of M.P. in the year 1994 which came to be registered as W.P. No.4476/1994 and that writ petition was dismissed by the Court by a reasoned order

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dated 2.8.1995 on merit as well as on the ground of concealing material facts from the Court. In that order it was held that the contract awarded to respondent No.4 was perfect and there was no illegality or irregularity. However, when respondent No.2 & 3 all of a sudden stopped respondent No.4 from constructing the shops, respondent No.4 filed the writ petition, in that case in the year 1995 order of status quo was granted in favour of respondent No.4, as mentioned earlier, and ultimately, in the year 2004 respondent No.2 & 3 took a decision that respondent No.4 be allowed to continue with the construction work.

4. As mentioned above, contract in question entered into between respondent No.4 & respondent No.2 & 3 has already been tested on the judicial scrutiny by the Court in W.P. No.4476/1994 filed by the petitioner herein by a lengthy order and after discussing all the points raised by the petitioner herein decided the same, therefore, this second writ petition is not maintainable. Moreover, the petitioner is a unsuccessful bidder, he has no right to challenge that as to why respondent No.2 & 3 by withdrawing the order of 1995 allowed respondent No.4 to go on with the construction work. As the agreement was already entered into between the parties and in compliance of that respondent No.2 & 3 had allowed respondent No.4 to construct the said shops, moreover, construction was already completed in the month of January, 2005, therefore, in my opinion there is no point to be raised in this writ petition and same is devoid of merit.

5. In the result, the petition is dismissed. No order as to the costs.

Sd/-
L.C. Bhadoo
Judge

Roshan/-